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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,
10
11 Plaintiff,

Case No. CR10-212-JCC

12 v.

13 KELLY GEORGE MURPHY,
14 Defendant.

**PROPOSED FINDINGS OF FACT
AND DETERMINATION AS TO
ALLEGED VIOLATIONS OF
SUPERVISED RELEASE**

15 **INTRODUCTION**

16 I conducted a hearing on alleged violations of supervised release in this case on November
17 23, 2011. The defendant appeared pursuant to a warrant issued in this case. The United States
18 was represented by Justin Arnold, and defendant was represented by Jay Stansell. Also present
19 was U.S. Probation Officer Tracy Cowen. The proceedings were digitally recorded.

20 **SENTENCE AND PRIOR ACTION**

21 Defendant was sentenced on June 10, 2008, in the District of North Dakota for Bank
22 Robbery. He received 30 months of detention and 3 years of supervised release.

23 On July 19, 2010, the Court approved the transfer of jurisdiction of Mr. Murphy's case from
the District of North Dakota to the Western District of Washington.

On December 27, 2010, a Request for Modifying the Conditions or Term of Supervision

1 with Consent of the Offender was submitted to the Court after Mr. Murphy agreed to complete
2 up to 120 days in a Residential Reentry Center ("RRC") after admitting to consuming alcohol.
3 The Court approved the modification on January 3, 2011.

4 On March 17, 2011, Mr. Murphy's conditions of supervised release were modified to
5 include the condition that he reside in a RRC for 180 days after he admitted to failing to
6 participate in a RRC as instructed for consuming alcohol.

7 On August 26, 2011, a violation report and request for warrant was submitted to the Court
8 alleging that Mr. Murphy had violated his conditions of supervised release by consuming
9 alcohol. Mr. Murphy appeared before United States Magistrate Judge Mary Alice Theiler on
10 September 13, 2011. The Court signed a stipulated order for release pending adjudication. It
11 was the understanding of all parties, including Mr. Murphy, that he was to appear before United
12 States District Judge, John C. Coughenour on October 21, 2011. However, due to some
13 administrative oversight, the hearing was not held. It was the agreement of all parties that Mr.
14 Murphy would have been admitting to the aforementioned violation at that hearing.

15 **PRESENTLY ALLEGED VIOLATIONS**

16 In a petition dated August 26, 2011, U.S. Probation Officer Jerrod Akins alleged that
17 defendant violated the following conditions of supervised release:

- 18 1. Consuming alcohol on July 7, 2011, in violation of the special condition that he not
19 use alcohol during the term of supervised release.

20 In a second petition dated October 24, 2011, U.S. Probation Officer Jerrod Akins alleged
21 that defendant violated the following conditions of supervised release:

- 22 2. Committing the crime of malicious mischief second degree on September 22, 2011,
23 in violation of the general condition that he refrain from committing any federal,

1 state, or local crime.

- 2 3. Consuming alcohol on October 4, 2011, in violation of the special condition that he
3 refrain from the use of alcohol.

4 **FINDINGS FOLLOWING EVIDENTIARY HEARING**

5 Defendant admitted the above violations, waived any hearing as to whether they occurred,
6 and was informed the matter would be set for a disposition hearing December 2, 2011 at 9:00
7 a.m. before United States District Judge John C. Coughenour.

8 **RECOMMENDED FINDINGS AND CONCLUSIONS**

9 Based upon the foregoing, I recommend the court find that defendant has violated the
10 conditions of his supervised release as alleged above, and conduct a disposition hearing.

11 DATED this 23rd day of November, 2011.

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14 BRIAN A. TSUCHIDA
15 United States Magistrate Judge
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